

University of Montana

ScholarWorks at University of Montana

Montana Public Affairs Report

Economics

4-1980

Montana Public Affairs Report, April 1980

University of Montana (Missoula, Mont. : 1965-1994). Bureau of Government Research.

Follow this and additional works at: <https://scholarworks.umt.edu/mtpa-report>

Let us know how access to this document benefits you.

Recommended Citation

University of Montana (Missoula, Mont. : 1965-1994). Bureau of Government Research., "Montana Public Affairs Report, April 1980" (1980). *Montana Public Affairs Report*. 7.

<https://scholarworks.umt.edu/mtpa-report/7>

This Report is brought to you for free and open access by the Economics at ScholarWorks at University of Montana. It has been accepted for inclusion in Montana Public Affairs Report by an authorized administrator of ScholarWorks at University of Montana. For more information, please contact scholarworks@mso.umt.edu.

The Unicameral Question: A Look at Both Sides

INTRODUCTION—Sue O'Connell

Montana's Constitutional Initiative No. 10 was born out of one legislator's frustration with the 1979 legislative session. The proposal seeks to replace the state's two-house legislature with a one-house body. Rep. Arlyne Reichart, D-Great Falls, announced shortly after the midpoint of the session that she would begin a campaign to place a unicameral initiative on the 1980 ballot. The freshman legislator, upset at the hurried way in which hundreds of bills had been handled in the rush to meet the deadline for sending them from one house to the other, believes that the best way to improve the legislature is to eliminate one of the houses.

The initiative provides for one house of between 80 and 100 legislators. Currently, Montana has 100 representatives and 50 senators. If the initiative passes, the 1981 legislature would work out the specifics of the plan and decide on the number of legislators. This plan would then go into effect in 1983.

To be placed on the 1980 ballot, the initiative must have 31,672 valid signatures and be submitted to the Secretary of State's office by July 11, one year after it was approved by the office as a 1980 ballot issue. So far, Reichert and other unicameral supporters have gathered about 14,000 signatures around the state.

Montanans have been presented with the unicameral question twice before. Most recently, it appeared on the 1972 ballot as a side issue to the new state constitution. During the Constitutional Convention, many of the 100 delegates—including Reichert—favored the unicameral proposal, but feared the new constitution would not be approved if such a controversial provision was included in it. Hence, unicameralism was made a separate issue and was subsequently defeated, although the constitution garnered enough votes to pass.

A unicameral measure also was proposed and defeated in the Montana House of Representatives in 1937. The successful passage of a unicameral plan in Nebraska in 1934 spurred many states to attempt to switch to the one-house system in the next few years. None, however, succeeded in their attempts.

Although this third attempt indicates a new wave of dissatisfaction with Montana's legislative system, it represents very little change in the arguments used both to support and oppose unicameralism. Proponents argue that a one-house legislature would be more efficient and less costly, thus allowing legislators to create better legislation at a relatively lower expense. Opponents contend that without the check of the second chamber, legislation will be passed too hastily, thus allowing legislators to act on any whim and resulting in poor legislation.

Supporters of unicameralism believe the second chamber creates too many problems—deadlines for transmitting bills from one house to another, duplication of committees and bills, conference committees and confrontations between the houses, to name just a few. They feel bicameralism becomes bogged down by the extraneous problems created by duplication and that it cannot respond to the needs and wishes of the people of the state.

On the other hand, opponents of unicameralism fear that abolishing the second house would destroy the mechanism for maintaining a balance in legislative procedures and in the legislation that citizens think is necessary. These opponents believe that bicameralism, rather than hindering the lawmaking process, provides the necessary restraints on hasty legislation and creates the best legislation because the two bodies share their knowledge.

While Montana and other states have considered the issue more than once, Nebraska has been the only state to adopt the unicameral system. Since 1937, its legislature has met as a single body and its senators show no desire to return to bicameralism. However, disagreement still exists among people there and elsewhere over whether the system works well. Differing views can be found on a wide range of topics: the ease with which lobbyists can influence legislation, the accessibility of legislators to their constituents, the ways in which press coverage is aided and thus allows the public to keep track of the legislators' actions, and the efficiency with which bills are handled.

These topics and others will all be addressed in the coming months if Montana's initiative receives enough signatures to be placed on the ballot. Here, Rep. Reichert and Sen. Stan Stephens, R-Havre and Senate majority leader, present their differing opinions on some of the issues.

PRO—Arlyne Reichert

Session after session, Montana's bicameral legislative process has deteriorated into a two-ring circus. Even the most attentive observer finds it a difficult task to make sense of the 90-day, biennial performance of the House of Representatives and the Senate. There is total confusion not only when party control of the chambers is split, which has occurred in 20 of 46 legislative sessions, but also when the House and Senate are controlled by the same party.

Bicameralism results in duplication, buck passing, deadline pressures and repeated confrontations. More importantly, it results in poor legislation.

(Continued on page 2)

CON—Stanley G. Stephens

In 1972, the voters of Montana turned down a proposal to change Montana's traditional bicameral legislature into a unicameral body. The unicameral issue, which previously had been defeated by Montana legislators in 1937, appeared on the ballot as a product of the Constitutional Convention. Convention delegates, sensing the mood of Montanans and fearing the defeat of their newly drafted Constitution if it contained a unicameral legislative mandate, presented the unicameral question as a separate item. The Constitution itself squeaked through, despite a negative vote in 43 of 56 counties. The side issue of a unicameral legislature again met defeat. Eight years later, the remnants of that 1972 effort to sell

(Continued on page 3)

(Continued from page 1)

The structure of the national legislative body often is presented as the model for state legislatures to follow. In the U.S. Congress, however, there is an important reason for bicameralism that is missing at the state level. The federal constitution requires the U.S. Senate to represent states and the House of Representatives to represent people. Prior to 1964, the Montana Senate represented counties and the Montana House represented people. In that year, however, the U.S. Supreme Court ruled that both houses of state legislatures must be based on population. This decision effectively negated the reason for bicameralism in state legislatures.

States should instead follow the lead of municipalities, which discarded bicameralism in the early twentieth century. Faced with internal corruption, the cities discarded their bicameral councils, which were supposed to check wrongdoing, and substituted unicameralism in order to pinpoint an official's responsibility in creating laws.

One state, Nebraska, adopted the unicameral plan in 1934. The Citizens' Conference on State Legislatures in 1971 ranked Nebraska legislators first in the nation for accountability to their constituents. The July 1979 issue of *Kiwanis* magazine praised the quality of work performed by the Nebraska legislators: "Rarely have laws emerging from the unicameral house been struck down by either the Nebraska or U.S. Supreme Court."

One possible reason that Nebraska is the only unicameral state is that 33 states do not allow their citizens to initiate constitutional changes. When only the legislature can initiate constitutional change, it is understandable that a majority of legislators fail to suggest a proposal to reduce their number. In Alaska in 1976, for example, voters approved a non-binding unicameral initiative, and their legislators refused to implement it.

Advantages of unicameralism are obvious when citizens ask themselves what they expect of their legislature. Most Montanans want a responsible and efficient system that is accountable for its actions and responsive to the people. It is enlightening to compare bicameral and unicameral legislatures using these criteria.

Bicameralism means a larger and more costly legislature. In 1979, 1,630 bills were introduced in the Montana Legislature and 881 became law. One way to limit democratically the number of bills introduced is to reduce the number of legislators. Montana has a population of 780,000 and 150 legislators, while California with 21 million people has only 120 legislators. The Montana unicameral proposal calls for a legislature of between 80 and 100 members, thus reducing the number of legislators by at least one-third.

A unicameral system of fewer legislators working without the inherent deadline pressures of bicameralism would result in fewer bills, more thorough consideration, better laws and savings of millions of dollars. The Montana Legislative Fiscal Analyst estimates that at least \$1.15 million would be saved per session if Montana switches to unicameralism. Also, a need currently exists for additional space for the large bicameral legislature with its duplicate committees. Millions of dollars in future building costs would be saved with a unicameral body.

A unicameral legislature would result in more responsible government. Now that the state Senate must by law represent population in the same way the House does, it is time that the huge Senatorial districts be discarded. Each senator now represents about 14,000 Montanans and, in some cases, as many as six counties.

A unicameral legislature would retain the smaller House districts and eliminate the too-large Senatorial districts. In the past, Montanans often have found their senator, representing a large district, voting against their representative, who serves a smaller district.

In the complex bicameral system with its nooks, crannies, and dead ends, responsibility for action or inaction on a specific bill is difficult to determine. In the less complicated unicameral system, citizens can more easily follow the progress of each bill and the action of each legislator. Thus the work of the legislature will be visible to all, not just to the highly paid professional lobbyist.

A unicameral system also will lead to a more responsible use of time. In Montana's bicameral legislature, one of the greatest evils is the deadline on the 45th day for transfer of bills between chambers. On the three days preceding the 1979 transmittal deadline, members of the House worked from 9 a.m. to midnight, had their meals brought in and rushed 251 bills through the vital debate stage. This helter-skelter atmosphere can be avoided in a unicameral legislature because it has no transmittal deadlines. The last days are also chaotic in the Montana Legislature. In 1979, Montana's two chambers fought over the massive appropriations measure, bickering over the return of millions of surplus tax dollars that should never have been taken from Montanans in the first place.

In Nebraska, without the pressure of two chambers, a bill is debated twice on the floor of the legislature and is subject to three reviews for errors. Last session, the Nebraska legislators reserved the final day for responding to the vetoes of their governor.

Many experts agree that the conference committee is the most irresponsible aspect of the bicameral system. If the Senate and House deadlock on a bill, a six-person joint conference committee is appointed by the leadership of each chamber to prepare a compromise. Two of the three conference committee members from each chamber must agree before a committee report can be submitted to the two houses for further action. These committees invariably are set up near the hectic end of the session, and meetings are often impromptu, held in a hall upon a few minutes notice or over lunch. Students of the legislative process have speculated that bills are amended solely to get them into a conference committee, where some special interests can be more effective than they could be in the open sessions of standing committees. The conference committee's rewrite of a bill is almost always accepted because there is not time to do anything else. In effect, six legislators are telling the entire legislature, "Take it or leave it." There are no conference committees in a unicameral legislature.

A unicameral legislature, far more than a bicameral system, will realize the basic American political goal of accountability to the majority as opposed to minority interests. Currently in Montana, a bill dies when only 25 of the state's 50 senators oppose it—even if all of the 125 other legislators support it. For example, a 1979 bill appropriating funds to improve the Montana School for the Deaf and Blind passed overwhelmingly in the House but was refused consideration in the Senate by only one vote. In recent legislative sessions, two other significant issues lost by only one vote in the Senate—educational television and annual legislative sessions.

Minority rule often prevails in a bicameral system. The majority always rules in a unicameral legislature.

The cumbersome hearing process of the bicameral system has not served the legislature's purpose of being responsive to the people. Legislators themselves admitted in a 1979 survey conducted by the League of Women Voters that, at times, adequate notice of hearings and adequate time for testimony are lacking. Hearings often must be held in out-of-the way places because of duplicate committees and are crowded, forcing the public into hallways, because of the large number of legislators. Hearings are particularly a problem for those who live outside Helena and must travel to separate hearings on the same bill. Often, a Montanan returns home from a hearing in one chamber and then must return for the second one. There is one public hearing on each bill in a unicameral legislature.

Public responsiveness also is frustrated in a bicameral system because of its vulnerability to special-interest influence. This is why high-pressure lobbyists who are paid large fees to cover the legislature oppose unicameralism. In a two-house legislature there are more opportunities to shape legislation out of the public spotlight, and lobbyists are adept at following the circuitous route of a bill. In a unicameral system, all legislative action is open to the scrutiny of citizens and the media. It would be far more difficult for a lobbyist to influence a majority of 100 legislators than a majority of the current Senate or a majority of a conference committee.

Probably the most often heard argument against unicameralism is that it will remove an important check on government. The check of bicameralism, however, is more apparent than real. One chamber rarely catches the other's mistakes, and normally bills pass through both houses replete with errors. A bill often passes one house with the hope that the other house will give it careful consideration, and then it passes the second chamber on the assumption that it previously was studied carefully. A Maryland study concluded that the "very small percentage of bills which did receive worthwhile review does not seem to justify the tremendous cost of a bicameral system."

This observation seems to fit the experience of the 1979 Montana Legislature. A total of 627 bills were introduced in the Senate and over 60 percent of these were passed by both houses; of the 253 Senate bills that were killed, about 80 percent died in the Senate itself and only 13 Senate bills died on the floor of the House, many of these being duplicates of House bills.

Proponents of a unicameral legislature firmly believe the system of checks and balances is necessary between the branches of government, but not within the branches. The executive veto and judicial review are valuable and necessary, but the divisiveness and buck passing of bicameralism only weaken the people's branch of government in its dealings with the citizenry, the other branches and the bureaus.

Montana voters have an opportunity to improve dramatically the legislative process by adopting Constitutional Initiative No. 10. Bicameral advocates argue that the current system needs merely to be reformed. Reforms have been attempted for years and always failed because, as the League of Women Voters discovered in their 1979 survey, most legislators are adamantly opposed to possible improvements.

Adoption of a unicameral legislature by the initiative of the people is the only way to improve the system. In 1972 the Constitutional Convention, a unicameral body, supported a unicameral state legislature and offered it as an alternative on the constitutional ballot. Even without campaign funds or an organized educational campaign, the unicameral issue received 44 percent of the vote.

Adoption of a unicameral legislature in 1980 will reduce the size and complexity of the legislature and thus be in the interest of Montana and Montanans.

(Continued from page 1)

Montana on the unicameral proposition are back at work.

There is strong evidence that Montanans continue to oppose the idea of junking their bicameral legislature in favor of a system that has been carefully scrutinized and rejected by 48 other states. In 1979, the Montana House of Representatives voted 61-28 not to recommend unicameral to the voters. That same year, the League of Women Voters, who long have stumped for the unicameral idea, found the issue rejected by Montanans at better than a six-to-one ratio in their own public opinion poll.

It makes no sense to do away with a system that has served Montana well. Certainly the legislature always can be improved, and there is an ongoing effort in this regard that already has produced significant changes and improvements. While Montanans often criticize the voting judgment of their legislators, there has been no public outcry against the bicameral system. The public has endured but not succumbed to propaganda barrages on how great the unicameral legislature functions in Nebraska, the only state to adopt it. There could be more of the same this year, and hopefully Montana voters will continue to resist for the same sound reasons they have rejected this proposition in the past.

Why does Montana oppose a unicameral legislature? First, by removing the present system of checks and balances it becomes much easier to enact poor and unnecessary legislation. Montanans share the frustration that is sweeping America that there already are too many laws, rules, and regulations. Adopting a system that would make it easier for special interests to heap still more laws on an already overburdened society is not going to meet with public favor. A legislative proposal worthy of becoming law should be able to withstand the thorough and detailed analysis it receives in a bicameral legislature. When one house acts out of emotion or impulse, as has happened in the past, the issue is subject to a serious and unemotional examination by the second house, a benefit not found in the unicameral system. When it comes to lawmaking, the old cliché that two heads are better than one still has broad appeal in Montana.

Proponents argue that a unicameral legislature would be less costly, and yet the history of Nebraska disagrees. Since adopting unicameral and subsequently moving to annual sessions, the cost of funding the Nebraska legislature has steadily risen. Actually, arguments over cost become irrelevant when you consider that the expense of financing the legislature amounts to less than one percent of the state budget in Montana.

Unicameral advocates foresee a smaller legislature meeting in annual sessions and speculate that a move toward professional and even full-time legislators would somehow produce better legislation. While the quality of legislation always can be improved, a smaller legislature will only further erode public contact with legislators, particularly in rural areas. Many of Montana's legislative districts presently cover vast distances, and reducing the number of legislators will increase the size of districts. Both

conservatives and liberals agree that legislators should be accessible to their constituents. A smaller legislature will impede public access.

It is argued that city councils and constitutional conventions are unicameral bodies and seem to function well. What is so different about a state legislature? City councils lack the power to tax and, while they do enact local ordinances, their lawmaking powers are substantially less than those of state government. A state constitutional convention, unlike a legislature, must have its recommendations approved by a public vote.

Another argument put forth by unicameral supporters deals with the legislative conference committees. When the House and Senate differ on amendments to legislation, a conference committee is appointed to iron out the differences. It has been incorrectly charged that such committees wield excessive power and often overrule the intent of a majority of legislators. The fact is, all conference committee reports must be ratified by a majority of the membership of the legislature. Further, during ten years of service in the legislature, this writer has never observed a single instance when a conference committee reversed the will of the majority.

Why, then, do certain legislators and others with a vested interest in what the legislature does promote the unicameral cause? In the case of legislators, it is usually disappointment over having their pet bill fail in the two-house system. Some legislators want to try the unicameral idea because they think it would be easier to convince a single house. Others who tout the unicameral system often are

motivated by the hope that any kind of major change will produce a better legislature. They are thrilled with the notion of changing the entire system rather than improving it. All they need is someone extolling the way things are done in the Cornhusker state, and they are on the unicameral bandwagon.

It is interesting to note the views of those who have served in the legislature. Many offer suggestions on how the system might be improved, but very few endorse unicameral for Montana. These experienced individuals from both parties have seen the current system work. They have known both frustration and disappointment and success and satisfaction, and through it all they have remained loyal to the bicameral plan because it operates for the best interests of Montana.

Montanans have twice rejected proposals to switch to a unicameral legislature. They were right in those instances and will be right again when they turn it down in 1980.

MONTANA PUBLIC AFFAIRS REPORT

Bureau of Government Research—University of Montana

James J. Lopach, Director

Sue O'Connell, Guest Editor

The *Report* presents the results of research and responsibly developed recommendations on matters of public concern. The statements and opinions expressed are the responsibility of the contributing authors and do not reflect positions of the Bureau or the University unless so indicated. Published periodically during the academic year. Single copies or subscriptions available on request.



3200 4/80 615—UM Printing Services

Non-profit Organization
U.S. Postage
PAID
Permit No. 100
Missoula, MT 59812

MONTANA PUBLIC AFFAIRS REPORT
Bureau of Government Research
University of Montana, Missoula 59812